

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PLASTICS PLUS, INC.,

Plaintiff,

Case No. 12-CV-10125

v.

HON. GEORGE CARAM STEEH

FORTIS PLASTICS, LLC,

Defendant.

_____ /

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS
COUNT V OF PLAINTIFF'S COMPLAINT (#5)

On February 28, 2012, defendant filed a motion to partially dismiss plaintiff's complaint for failure to state a claim upon which relief may be granted. Defendant seeks dismissal of count V (fraudulent misrepresentation). Defendant argues the fraudulent misrepresentation claim should be dismissed because plaintiff's allegations of fraud relate only to future conduct and because plaintiff has failed to state the fraud claim with particularity. The court set a deadline of March 23, 2012 for plaintiff to respond to the motion. The deadline was extended three times, upon agreement of the parties. The third extension specifies that it is the third and final order extending the time for filing a response. The third extension set a deadline of May 14, 2012 for plaintiff to file a response to the motion and set a hearing date of June 21, 2012. As the most recent stipulation indicated the parties were conducting settlement negotiations, the court contacted the parties on May 23, 2012 to inquire as to whether the case had settled. The court was informed the case has not settled. Plaintiff failed to file a response by the May 14, 2012 deadline. The court finds that oral argument is not necessary. See Local Rule 7.1(f). For the reasons set forth in defendant's motion to partially dismiss plaintiff's complaint, defendant's motion is

GRANTED and count V of plaintiff's complaint is DISMISSED.

IT IS SO ORDERED.

Dated: May 29, 2012

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE
Copies of this Order were served upon attorneys of record on
May 29, 2012, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk